

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 301 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

HARIBHAKTI RANESWAR MAHADEV CHARITABLE TRUST

Versus

BARODA MUNICIPAL CORPORATION

Appearance:

MR PR THAKKAR for Petitioner

MR MTM HAKIM for Respondent No. 4,5 and 6

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 20/06/2001

ORAL JUDGEMENT

1. Leave granted to the petitioner to delete the respondents Nos.1 to 3.

2. Heard learned advocate Mr.P.R.Thakkar for the petitioner and learned advocate Mr.M.T.M.Hakim for the

respondents. Rule. Mr.M.T.M.Hakim, learned advocate waives service of rule on behalf of respondent Nos.4, 5 and 6.

3. The petitioner has challenged the order dated 20/12/2000 passed by 3rd Joint Civil Judge (S.D.), Vadodara below Ex.177 in the proceedings of Regular Civil Suit No.1348 of 1994.

That vide impugned order, the trial Court has rejected the application to reopen the evidence of the plaintiff in the facts and circumstances pleaded in the application and has directed that the plaintiff shall be permitted to lead evidence in examination-in-chief only relating to documents at Mark 4/7 and 129/2.

4. It appears from the record that pending the recording of the evidence in the proceedings of Regular Civil Suit No.1348 of 1994, the trial Court refused to exhibit the documents produced at Mark 4/7 and 129/2 and thereby the present petitioner preferred Civil Revision Application No.458 of 1997 which came to be decided by this Court (Coram : Mr.N.N.Mathur,J.) vide order dated 22/04/1998. That vide the said order, the High Court directed the trial Court to permit the plaintiff i.e. present petitioner to lead evidence for the purpose of exhibiting the documents produced at Mark 4/7 and 129/2.

5. It is also necessary to note that pending the proceedings of Civil Revision Application No.458 of 1997, the present petitioner who is the original plaintiff of Regular Civil Suit No.1348 of 1994 remained under the impression that the matter would not proceed further pending final disposal of Civil Revision Application No.458 of 1999 and, thereby did not attend the Court and as a result, the further evidence of the plaintiff was closed on 18/1/1997, as plaintiff had not remained present on earlier dates i.e. on 29/11/96 as well as 18/01/1997. It is the case of the petitioner that during the course of hearing of Civil Revision Application No.458 of 1997, the plaintiff came to know about the said order of closing the evidence of the plaintiff by the trial Court and therefore, the application Ex.177 was moved with a request to reopen the evidence of the plaintiff and permit the plaintiff to lead further evidence.

6. That the trial Court has rejected the said application by observing that as per the order of the High Court dated 22/4/1998 in Civil Revision Application No.1348 of 1994 the plaintiff is permitted to lead the

evidence for the purpose of exhibiting the documents at Mark 4/7 and 129/2 only and as such, in the absence of any application to condone the delay the application is time barred.

7. During the hearing of admission, the learned advocate for the petitioner made a statement at Bar that in the trial Court, no further proceedings in respect to Regular Civil Suit No.1348 of 1994 has taken place and the matter is still pending at the stage of leading further evidence of the plaintiff in compliance of the order passed in Revision Application.

8. Under the circumstances, considering the facts and circumstances of the case, as apparent from the record, to meet the ends of justice, the petitioner/plaintiff is permitted to lead further evidence in the proceedings of Regular Civil Suit No.1348 of 1994 on payment of costs to the defendant quantified at Rs.1,500/-- and the trial Court shall conduct the proceedings further in accordance with law and dispose of the suit as expeditiously as possible. Rule to that extent made absolute.

(A.K.Trivedi,J.)

(vrpanchal)*